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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission

Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In re Applications of)	MM DOCKET NO. 93-107
)	
DAVID A. RINGER)	File No. BPH-911230MA
)	
ASF BROADCASTING CORPORATION)	File No. BPH-911230MB
)	
WILBURN INDUSTRIES, INC.)	File No. BPH-911230MC
)	
SHELLEE F. DAVIS)	File No. BPH-911231MA
)	
OHIO RADIO ASSOCIATES, INC.)	File No. BPH-911231MC
)	
For a Construction Permit for)	
a New FM Station on Channel)	
280A at Westerville, Ohio)	

To: The Review Board

OPPOSITION TO MOTION FOR LEAVE TO FILE SUPPLEMENT

David A. Ringer ("Ringer"), by and through counsel, and pursuant to §1.294 of the Commission's Rules (47 C.F.R. §1.294, hereby submits an opposition to the "Motion For Leave To File Supplement" ("Motion") filed by Ohio Radio Associates, Inc., in the above-captioned proceeding. In support whereof, the following is shown:

Background

1. On April 11, 1994, Mr. Ringer filed an application for a new FM station at Athens, Ohio (File No. BPH-940411ME). This application is pending as are the mutually-exclusive applications of Lakeside Broadcasting, Inc. (File No. BPH-940411MG), William E. Benns, IV (File No. BPH-940411MC) and Esquire Communications (File No. BPH-

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940411MB).

2. In his Athens application, Mr. Ringer estimated that he would need \$352,520 to build and operate the new station for three months without revenue. See Exhibit A. Also in his Athens application, at Exhibit 1, Mr. Ringer disclosed the existence of his pending Westerville, Ohio, application. See Exhibit A.

3. As he explains in his attached Declaration (Exhibit B), Mr. Ringer intends to rely on his own personal assets to construct both his Westerville and Athens stations. The total budget for these two stations would be \$782,744. Attached to his Declaration, Mr. Ringer includes his Financial Statement of April 30, 1993 (which he has previously made available in this proceeding) and he notes that there have been no substantial changes to his Financial Statement since the time it was drafted. Mr. Ringer states that he has "net liquid assets in excess of the budgets for both stations. My marketable securities (\$663,514) and Certificates of Deposits (\$250,000) alone would supply sufficient financing for both station construction budgets." Exhibit B.

4. In his Declaration, Mr. Ringer also acknowledges that he inadvertently did not report the filing of his

Athens, Ohio, application in this proceeding but that he was filing an amendment to correct this oversight.¹ See Exhibit B.

The Athens Application Does Not Effect Mr. Ringer's Financial Qualifications

5. ORA argues that Mr. Ringer's previous site change amendment filed on May 9, 1994, should not be accepted because there exists questions as to whether Mr. Ringer will be able to construct and operate two separate broadcast facilities. As the attached documents demonstrate, Mr. Ringer has ample personal financial resources to build and operate both stations. While his combined station budgets equal \$782,744, just two of Mr. Ringer's liquid assets total more than \$900,000. He will be able to rely upon these and other assets to build these stations.

No Reporting Issue Is Warranted

6. ORA also argues that Mr. Ringer's May 9, 1994 amendment cannot be accepted because "Section 1.65 failure to report and lack of candor issues would be required." Motion at p. 2. To the contrary, no such issues are required in this case. The Commission has stated that, in order for a §1.65 reporting issue to be added against an applicant, it must be shown that: (a) the unreported interests are of decisional significance; (b) an intent to

¹ Mr. Ringer is simultaneously filing an Petition For Leave To Amend and Amendment this day.

conceal is present² and (c) a pattern of carelessness or inattentiveness is present. See, Merrimack Valley Broadcasting, Inc., 55 RR 2d 23 (1983). None of these elements are present in this case.

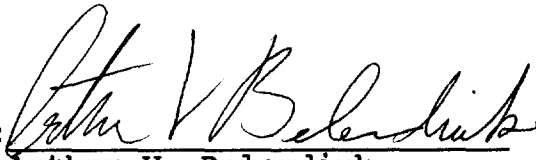
7. Mr. Ringer's filing of his Athens application is not a decisionally significant event. The Athens application is not an "ownership interest" under the Commission's definition of that term. Therefore, Mr. Ringer is not presently required to submit a divestiture pledge for this filing.³ Furthermore, as outlined above, the filing of his Athens application would have no effect on Mr. Ringer's financial qualifications in this proceeding. Therefore, Mr. Ringer's filing of an application for Athens is not decisionally significant in this case since it would have no effect on either Mr. Ringer's basic qualifications or his comparative posture.

WHEREFORE, the above-premises considered, David A. Ringer respectfully requests that the Motion For Leave To File Supplement filed by Ohio Radio Associates, Inc., be **DENIED**.

²Mr. Ringer reported his Westerville application in his Athens filing, thus there is no evidence of an intent to conceal.

³ See, Washington Christian Television Outreach, Inc., 59 RR 2d 787, 790 (1985), where the Commission stated that an application that is pending in a comparative proceeding is not cognizable for diversification purposes and no divestiture pledge is required until an interest is acquired.

DAVID A. RINGER

By: 
Arthur V. Belendiuk
Shaun A. Maher

His Attorneys

SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W.; Suite 510
Washington, D.C. 20006
(202) 785-2800

August 11, 1994

Westervi/0811.opp

EXHIBIT A

Approved by OMB
3060-0027
Expires 6/30/95

FCC 301

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FOR
FCC
USE
ONLY

APPLICATION FOR CONSTRUCTION PERMIT
FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY

FILE NO.

Section I - GENERAL INFORMATION

1. APPLICANT NAME

David Ringer

MAILING ADDRESS (Line 1) (Maximum 85 characters)

417 West Sixth Avenue

MAILING ADDRESS (Line 2) (If required) (Maximum 85 characters)

CITY

Columbus

STATE OR COUNTRY (If foreign address)

OH

ZIP CODE

43201

TELEPHONE NUMBER (include area code)

(614) 297-1223

CALL LETTERS

OTHER FCC IDENTIFIER (IF APPLICABLE)

FOR MAILING THIS APPLICATION, SEE INSTRUCTIONS FOR SECTION 1 - GENERAL INFORMATION B.

2. A. Is a fee submitted with this application?

☒ Yes ☐ No

B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1312) and go to Question 3.

☐ Governmental Entity

☐ Noncommercial educational licensee

C. If Yes, provide the following information:

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (If required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1)	M T R	0 0 0 1	\$ 2,030.00	

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

	(A)	(B)	(C)	FOR FCC USE ONLY
(2)		0 0 0 1	\$	

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED
WITH THIS APPLICATION

\$ 2,030.00

FOR FCC USE ONLY

3. This application is for: (check one box)

☐ AM

☒ FM

☐ TV

(b) Channel No. or Frequency

240A (95.9 MHz)

(b) Principal
Community

City

Athens,

State

OH

SECTION III - FINANCIAL QUALIFICATIONS

NOTE: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue. ☒ Yes ☐ No
2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue. \$ 352,520
3. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
David Ringer 417 West Sixth Avenue Columbus, OH 43201	(614) 297-1223	Applicant	360,000

EXHIBIT 1


David A. Ringer is an applicant for a construction permit for a New FM Station on Channel 280A at Westerville, Ohio (File No. BPH-911230MA). David A. Ringer's application was denied. See, David A. Ringer, 8 FCC Rcd 8156 (ALJ 1993). Mr. Ringer's appeal of the denial of his application is pending before the Review Board.

EXHIBIT B

DECLARATION

David A. Ringer, under penalty of perjury, declares as follows:

1. I am an individual applicant for a new FM station at Westerville, Ohio.
2. On April 11, 1994, I filed an application for a new FM Station at Athens, Ohio (File No. BPH-940411ME). The application is mutually exclusive with other applications and is currently pending before the FCC.
3. Should I receive a construction permit for both the Westerville and Athens facilities, I have sufficient net liquid assets to build and operate both stations for three months without revenue. My budget for Westerville is presently \$430,224. My budget for Athens is presently \$352,520. I intend to rely on my own personal assets to fund the \$782,744 that I would need for these construction projects.
4. Attached is my Financial Statement dated April 30, 1993, which I have previously made available in the Westerville proceeding. See Attachment A. There have been no substantial changes to this Financial Statement since April, 1993. As this Statement shows, I have net liquid assets in excess of the budgets for both stations. My marketable securities (\$663,514) and Certificates of Deposits (\$250,000) alone would supply sufficient financing for both station construction budgets.
5. While I disclosed the existence of my Westerville filing in my Athens, Ohio, application, the Athens, Ohio application was inadvertently not reported in the Westerville proceeding. I am submitting an amendment to my Westerville, Ohio, application to correct this oversight.


David A. Ringer
Individual

Aug 10, 1994
Date

DAVID A. RINGER
FINANCIAL STATEMENT
APRIL 30, 1993

Reeb, MacLaren & Steedman, Inc.

CERTIFIED PUBLIC ACCOUNTANTS / MEMBERS: AICPA, OSCPA, PCPS

DAVID A. RINGER
COLUMBUS, OHIO

WE HAVE COMPILED THE ACCOMPANYING STATEMENT OF FINANCIAL CONDITION OF DAVID A. RINGER AS OF APRIL 30, 1993 IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS.

A COMPILATION IS LIMITED TO PRESENTING IN THE FORM OF FINANCIAL STATEMENTS INFORMATION THAT IS THE REPRESENTATION OF THE INDIVIDUALS WHOSE FINANCIAL STATEMENTS ARE PRESENTED. WE HAVE NOT AUDITED OR REVIEWED THE ACCOMPANYING FINANCIAL STATEMENTS AND, ACCORDINGLY, DO NOT EXPRESS AN OPINION OR ANY OTHER FORM OF ASSURANCE ON THEM.

Reeb, MacLaren & Steedman, Inc.

JUNE 3, 1993

DAVID A. RINGER
STATEMENT OF FINANCIAL CONDITION
APRIL 30, 1993

ASSETS

Cash	\$ 4,933
Investments	
Certificates of Deposit - Note B	250,000
Marketable Securities - Note C	663,514
Partnerships - Note D	446,000
Y Bridge Broadcasting, Inc. - Note E	0
Notes Receivable - Note F	683,362
Non-Compete Agreement Receivable - Note G	150,000
Real Estate - Note H	380,000
Automobiles	24,000
Individual Retirement Accounts - Note I	52,000
Personal Effects	<u>40,000</u>
	2,693,809

LIABILITIES

Advest Margin Account Balance	31,383
Income Taxes - Current Year Balance	0
Mortgages Payable - Note H	<u>175,000</u>
	206,383
Estimated Income Taxes, on the differences between the estimated current values of assets and the estimated current amount of liabilities and their tax bases - Note L	<u>278,000</u>
Net Worth	<u>\$ 2,209,426</u>

See Accompanying Notes and Accountants' Report.

DAVID A. RINGER
NOTES TO FINANCIAL STATEMENT
APRIL 30, 1993

Note A - Basis of Accounting

The accompanying financial statement include the assets and liabilities of David A. Ringer. Assets are stated at their estimated current values and liabilities at their estimated current amounts.

Note B - Certificates of Deposit

Certificates of deposit consist of the following:

Bank One, 7.42%, Due July 1, 1993	50,000
Citizens Bank of Ashville, 7.82%, Due October 1, 1992	100,000
Society Bank, 7.23%, Due September 1, 1996	50,000
Society Bank, 7.23%, Due September 1, 1996	<u>50,000</u>
Total Certificates of Deposit	<u>\$ 250,000</u>

Note C - Marketable Securities

The estimated current values of marketable securities are their quoted closing prices. Marketable securities consist of the following:

	<u>4/30/93 Current Value</u>
<u>Stocks</u>	
1,500 Shares Novell, Inc.	\$ 45,000
200 Shares Philip Morris COS Warrants	9,425
100 Shares Glaxo	1,838
500 Shares Third Financial Corp.	<u>8,000</u>
Total Stocks	64,263

DAVID A. RINGER
NOTES TO FINANCIAL STATEMENTS
APRIL 30, 1993
(continued)

Note C - Marketable Securities (continued)

Bonds

10,307 Shares Franklin Ohio Tax-Free Insured Bond Fund	\$ 126,667
40,000 Franklin County Ohio Convention Center Facility Revenue Bond (7%, due December 1, 2019)	45,962
85,000 Franklin County Ohio Riverside Hospital Revenue Bond (7.25%, due May 15, 2020)	93,805
10,000 Franklin County Ohio Childrens' Hospital Revenue Bond (6.40%, due November 1, 2006)	10,483
15,000 Ohio State University General Receipts Revenue Bond (5.875%, due December 1, 2012)	15,283
75,000 Ohio State University General Receipts Revenue Bond (7.15%, due December 1, 2009)	85,652
50,000 Allen County Ohio Office Building AMBAC Insured Bond (7.0%, due December 1, 2015)	54,967
10,000 Denver Colorado City and County Airport Bond (8.0%, due November 15, 2025)	10,835
95,000 Ohio Housing Finance Agency Mortgage Bond (7.65%, due March 1, 2029)	95,468
24 Units Municipal Securities Investment Trust 37th Series Discount Fund	11,647
6 Units National Municipal Investment Trust Special 8 Discount Series	1,175
10 Units National Municipal Investment Trust Special 7 Discount Series	2,333
10 Units National Municipal Investment Trust Special 9 Discount Series	<u>3,681</u>
Total Bonds	<u>557,958</u>

Mutual Funds

228.579 Fidelity Growth and Income Fund	4,885
87.653 Shares Fidelity Europe Fund	1,433
3,267.20 Shares Fidelity Ohio Municipal Money Market Portfolio	<u>3,267</u>
Total Mutual Funds	<u>9,585</u>

Other Securities

2,854 American Utilities Income Trust	<u>31,708</u>
Total Marketable Securities	<u>\$ 663,514</u>

DAVID A. RINGER
NOTES TO FINANCIAL STATEMENTS
APRIL 30, 1993
(continued)

Note D - Partnership Investments

The estimated current values of partnership interests is determined using the approximate fair market values at December 31, 1992. The partnership investments consist of the following:

Three D Development - 33% interest, real estate (land) sales	\$ 340,000
Damon's of Chillicothe, 5% interest, restaurant	28,000
Chillicothe Car Wash, 10% interest, car wash	12,000
Five Star Development, 20% interest, real estate (land) sale	<u>66,000</u>
Total	<u>\$ 446,000</u>

Note E - Y Bridge Broadcasting, Inc.

David A. Ringer owns 25% of Y Bridge Broadcasting, Inc., a radio station. The Company has operated for approximately eighteen months. At this time, there is no significant equity accumulation in the company.

Note F - Notes Receivable

Notes Receivable consist of the following:

Y Bridge Broadcasting, Inc., no stated interest, due on demand	\$ 70,275
Three D Development, interest at 10.2% due monthly, secured by real estate	520,903
Three D Development, interest at 9%, payment of \$750.00 per month	68,184
Jim Delong, interest at 8%, due monthly, unsecured	5,000
Rick Sabine, interest at 6%, due monthly, unsecured	<u>19,000</u>
Total	<u>\$ 683,362</u>

DAVID A. RINGER
NOTES TO FINANCIAL STATEMENTS
APRIL 30, 1993
(continued)

Note G - Non-Compete Agreement

David A. Ringer has a contract with AD, Inc. in Milwaukee, Wisconsin for \$150,000 payable to him in \$50,000 increments over the next three years.

Note H - Real Estate

Real estate owned at April 30, 1993 consists of the following:

	<u>Estimated Market Value</u>	<u>Mortgage Balance</u>
11 Acres of land, Ross County, Ohio	\$ 35,000	\$ 0
Residence - Condominium, Columbus, Ohio	55,000	25,000
Residence - House, Chillicothe, Ohio	90,000	0
Residence - House, Columbus, Ohio	120,000	100,000
Construction in process - Residence, Ross County, Ohio	<u>80,000</u>	<u>50,000</u>
Totals	<u>\$ 380,000</u>	<u>\$ 175,000</u>

Note I - Individual Retirement Accounts

IRA Accounts consist of the following:

	<u>Approximate Value</u>
American CAP PACE Fund	\$ 47,000
Citizens Bank of Chillicothe	<u>5,000</u>
Total	<u>\$ 52,000</u>

DAVID A. RINGER
NOTES TO FINANCIAL STATEMENTS
APRIL 30, 1993
(continued)

Note J - Contingent Liabilities

David A. Ringer, along with the three additional shareholders, has guaranteed the payment of loans of Y Bridge Broadcasting, Inc. The loans are secured by substantially all assets of the company. The loan balances at September 30, 1992 totaled \$429,440.

Note L - Estimated Income Taxes

The estimated current amounts of liabilities at April 30, 1993 equaled their tax bases. Estimated income taxes have been provided on the excess of the estimated current values of assets over their tax bases as if the estimated current values of the assets had been realized on the statement date, using applicable tax laws and regulations. The provision will probably differ from the amounts of income taxes that eventually might be paid because those amounts are determined by the timing and the method of disposal or realization and the tax laws and regulations in effect at the time of disposal or realization.

CERTIFICATE OF SERVICE

I, Dale Harris, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 11th day of August 11, 1994, copies of the foregoing were mailed via first class mail, postage pre-paid, to the following:

The Review Board (*)
Federal Communications Commission
2000 L Street, N.W.
Washington, DC 20554

James Shook, Esq. (*)
Hearing Branch
Federal Communications Commission
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Room 7212
Washington, DC 20554

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Counsel for Ohio Radio Associates, Inc.

Eric S. Kravetz, Esq.
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Washington, DC 20036
Counsel for Wilburn Industries, Inc.

(*): By Hand Delivery


Dale Harris